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Connecticut State Medical Society

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Connecticut State Medical Society Testimony
Senate Bill 252 An Act Concerning Medical Malpractice Data Reporting.
Insurance And Real Estate Committee
March 4, 2010

Senator Crisco, Representative Fontana and members of the Insurance and Real Estate Committee, on behalf of the more than 7,000 members of the Connecticut State Medical Society (CSMS) thank you for the opportunity to present this testimony to you today on Senate Bill 252 An Act Concerning Medical Malpractice Data Reporting.

CSMS has long advocated for the appropriate collection and reporting of medical liability insurance date. This includes the requirement that all insuring entities such as risk retention entities and captives. As the method of medical liability insurance coverage changes, more physicians and institutions are moving away from traditional indemnity insurers and into other arrangements for liability coverage. In addition, as an increasing number of medical disciplines provide direct patient care and therefore carry liability coverage, it is important to capture their claims data as well to make sure that a complete and clear picture of medical liability in the State of Connecticut is presented..

While we support data reporting and appreciate attempts in the bill to provide enforcement powers to the Commissioner of the Insurance Department through the implementation of fines, we must raise concerns regarding the language and intent of the legislation that may cause the already excessive medical liability rates to increase, causing fewer physicians to remain in practice in Connecticut.

The draft bill before you today places the burden of reporting on the physician when an insuring entity fails to file a required report, known or unknown to the physician. This appears to be an excessive administrative burden to place on physicians and raises considerable concern. Such a requirement could also prove time consuming, especially for solo and small practice physicians and those physicians with limited support staff. Furthermore, physicians may not be in possession of all the relevant information necessary to report the claim details given the often complex nature of these situations. Reporting obligations should be left in the hands of the insuring entity or the legal counsel for the defense that hold all relevant information so that physicians can be left to focus on providing quality patient medical care.

The definition of "claim" in Section 1 is one where medical malpractice has been committed. Yet, a closed claim is defined as a claim that has been settled, or otherwise disposed of by the insuring entity, self insurer or health care provider, where all indemnity and expense payments have been made. "Medical Malpractice" is defined as an actual or alleged negligent act, error or omission in providing health care services. These definitions are conflicting, inappropriate and within this context unnecessary. There are many reasons outside of committing malpractice for which a physician may settle a claim The notion that all settled claims are defined as malpractice is inconsistent with general business standards in the medical liability arena, as well as

suggestive that every claim settled resulted from medical malpractice. We ask for clarity within the context of this bill so that it is recognized that claims may be the result of alleged, but not proven or admitted medical malpractice and that not all claims brought or settled are a result of medical malpractice.

Finally, we believe the intent of Section 1 (b) 5 needs to be clarified. It is unclear as written as to whether providers may be subject to paying the late filing fees if an insuring entity fails to comply with the statute. Again, a physician may not always know if and when a filing has been made by their carrier. It is our position that physicians should not be held accountable for the inaction of liability carriers or their affiliates, associates or intermediaries.

We look forward to working with you on this important legislation as the session progresses.